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## WISCONSIN LEGISLATIVE COUNCIL

### AMENDMENT MEMO

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<b>2001 Assembly Bill 507</b>	<b>Assembly Substitute Amendment 1</b>
Memo published: October 23, 2001      Contact: Mark C. Patronsky, Senior Staff Attorney (266-9280)	

#### **Current Law**

The current statute relating to storage and handling of anhydrous ammonia is intended to address concerns regarding the theft of anhydrous ammonia for use as an ingredient in the illicit manufacture of the drug methamphetamine. The current statute, s. 101.10, was created by 2001 Wisconsin Act 3. The effect of the statute is to impose more stringent penalties for these illegal activities, compared to the basic theft and property damage statutes.

The current statute has two basic provisions. First, the statute requires the Department of Commerce to promulgate rules that prescribe standards for the safe storage and handling of anhydrous ammonia. The statute describes in general terms the required contents of these rules and lists several exceptions to the rules. Second, the statute prohibits storing or transporting anhydrous ammonia in a container that does not meet the standards in Department of Commerce rules, and prohibits theft of anhydrous ammonia or the causing of damage to anhydrous ammonia equipment.

The Department of Commerce has promulgated rules related to the storage and handling of anhydrous ammonia in ch. Comm 43, Wis. Adm. Code. These rules were in place prior to the enactment of 2001 Wisconsin Act 3. The purpose of the new statutory mandate for rules in Act 3 is to provide a statutory cross-reference for the new prohibitions in Act 3.

#### **Assembly Bill 507**

Assembly Bill 507 is intended to address concerns regarding the scope of the statutory requirement for rules relating to anhydrous ammonia. The current statutory language may make these rules applicable to certain manufacturing or pollution control processes that were not intended to be subject to these rules. If the Commerce rules apply to such activities, violation of the rules as part of a manufacturing or pollution control process could result in a statutory violation for which the penalty is a felony.

**Assembly Substitute Amendment 1**

The substitute amendment takes a simpler approach to the rule-making mandate, by eliminating those parts of the current statute that describe the contents of and the exceptions from the rule. Thus, the scope of the anhydrous ammonia rules will be determined by the Department of Commerce.

The substitute amendment also adds an exemption to the imposition of a felony under current statute similar to the exemption for agricultural activities. Pursuant to this exemption, a person who stores or transports anhydrous ammonia in a container that does not meet the standards set by the Commerce rule, or transfers anhydrous ammonia into such a container, is subject to a civil forfeiture rather than a felony, if the person is working on anhydrous ammonia equipment with the consent of the owner of that equipment.

Assembly Substitute Amendment 1 was introduced by the Assembly Committee on Agriculture and recommended for passage by a vote of Ayes, 15, Noes, 0.

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